IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2092 OF 2006

Crompton Greaves Ltd. .. Petitioners

V/s

Union of India & Ors. .. Respondents

Mr.Jimmy Pochkhanawala with Mr.Aditya Chitale for the Petitioners.

Mr.A.J. Rana with Mrs.N.V. Masurkar for the Respondents.

CORAM : H.L. GOKHALE & J.P. DEVADHAR, JJ.

DATE : 18TH AUGUST 2006

P.C. :

1. Heard Mr.Pochkhanawala for the Petitioners and Mr.Rana for the Respondents.

2. Rule. Rule is made returnable forthwith.

3. The Petitioners seek to challenge the order passed by the Customs Excise and Service Tax Appellate Tribunal dated 12th June 2006 whereunder the Petitioners are directed to deposit an amount of Rs.10 lakhs towards the excise duty liability. We have seen this order under challenge. Mr.Pochkhanawala points out that the statement made before the Tribunal that the amount of duty would come down to Rs.10 lakhs was an alternative statement. His principal submission was that assuming that there is any such liability, the same is on the job

worker and it could not be shifted to the principal assessee. He has relied upon an earlier order passed by the Customs, Excise and Gold (Control) Appellate Tribunal dated 24th May 2002 where in para 7 in the case of the very assessee, the Tribunal had then held that it is the job worker who has to pay the duty for the work carried out by them and the duty could not be transferred to the appellant.

4. In view of the above, the order of pre-deposit of Rs.10 lakhs was unwarranted. We set aside that order. The appeal pending before the Customs Excise and Service Tax Appellate Tribunal will proceed without insisting on the pre-deposit.

5. We make it clear that we have not expressed ourselves one way or the other on the earlier order passed by CEGAT dated 24th May 2002.

6. Rule is made absolute as above. No order as to costs.

7. Authenticated copy of the order be issued to the parties.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR J.)